IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

DAVID GARCIA and SERGIO SEATON,	§	
Individually and On Behalf of All Others	§	
Similarly Situated,	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	CIVIL ACTION NO. SA-12-CA-0703-FB
	§	
CHAMPION GLASS, LLC, RAYMOND	§	
LUNA, DAVID A. LUNA, and JOSEPH	§	
A. LUNA,	§	
	§	
Defendants.	§	

ORDER ACCEPTING MEMORANDUM AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

The Court has considered the Memorandum and Recommendation of the United States Magistrate Judge filed in the above-captioned cause on October 23, 2014 (docket #51). According to the CM/ECF system, the Memorandum and Recommendation was electronically mailed to all parties on October 23, 2014. To date, the docket sheet reflects no objections to the Memorandum and Recommendation have been received.¹

Because no party has objected to the Magistrate Judge's Memorandum and Recommendation, the Court need not conduct a de novo review. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). The Court has reviewed the Memorandum and finds its reasoning to be neither clearly erroneous nor contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989). The Recommendation shall therefore be accepted pursuant to 28 U.S.C. § 636(b)(1) such that Defendants' Motion for Summary Judgment (docket #48) shall be GRANTED as to the Group 1 plaintiffs: Frank Aguilar, Charlie Brooke,

Any party who desires to object to a Magistrate's findings and recommendations must serve and file his, her or its written objections within fourteen days after being served with a copy of the findings and recommendation. 28 U.S.C. § 635(b)(1). If service upon a party is made by mailing a copy to the party's last known address, "service is complete upon mailing." FED. R. CIV. P. 5(b)(2)(C). If service is made by electronic means, "service is complete upon transmission." Id. at (E).

Anthony Flores, Adolph Lopez, Michael Patlan, Michael A. Pena, Michael L. Smith, and Rudy Vela;

GRANTED as to defendants David Luna and Raymond Luna in their individual capacities, DENIED

as to the Group 2 plaintiffs: Jesus Aguilar, Jr., Johnny Alvarez, Gilbert Galvan, David Garcia,

Randolph Jamison, Antonio Lopez, Jr., Jesus Ramirez, Sergio Seaton, and Thomas A. Willis, and

DENIED as to defendant Joseph Luna, in his individual capacity.

Accordingly, IT IS HEREBY ORDERED that the Memorandum and Recommendation of the

United States Magistrate Judge filed in this cause on October 23, 2014 (docket #48), is ACCEPTED

pursuant to 28 U.S.C. § 636(b)(1) such that Defendants' Motion for Summary Judgment (docket #48)

is GRANTED IN PART and DENIED IN PART as follows: the motion is GRANTED as to the

Group 1 plaintiffs: Frank Aguilar, Charlie Brooke, Anthony Flores, Adolph Lopez, Michael Patlan,

Michael A. Pena, Michael L. Smith, and Rudy Vela; GRANTED as to defendants David Luna and

Raymond Luna in their individual capacities; DENIED as to the Group 2 plaintiffs: Jesus Aguilar,

Jr., Johnny Alvarez, Gilbert Galvan, David Garcia, Randolph Jamison, Antonio Lopez, Jr., Jesus

Ramirez, Sergio Seaton, and Thomas A. Willis, and DENIED as to defendant Joseph Luna, in his

individual capacity.

Having denied the motion for summary judgment as to the Group 2 plaintiffs and defendant

Joseph Luna, IT IS FURTHER ORDERED that these remaining parties file a joint advisory with the

Court on or before December 15, 2014, indicating whether mediation is a viable option, whether

settlement is being explored based on the foregoing rulings, possible trial dates and the anticipated

length of trial.

It is so ORDERED.

SIGNED this 13th day of November, 2014.

FRED BIERY

CHIEF UNITED STATES DISTRICT JUDGE